Even if the letter of July 31, 1980 was completely unrelated to the option (which is not my finding), it does contain within it sufficient terms to satisfy the requirements of the Statute of Frauds. The defendants also fail on this contention.

For these reasons, I dismissed the appeal and ordered an enquiry on the amount of the abatement of the purchase price.

Appeal dismissed.

Solicitors: *Ng Liang Poh & Co.; Chung & Co.*

In re APPLICATION OF RAMAKRISHNAN CHAKARA PADAYACHI

[O.C.J. (Sinnathuray J.) September 30, 1981]
[Singapore — Originating Motion No. 30 of 1981]

Administrative Law — Mandamus — Employee falling down in course of work — Blood clot arising from head injuries — Report to Commissioner of Labour — Commissioner of view that accident did not arise out of employment — No hearing held — Workmen's Compensation Act, 1975, ss. 24 & 25.

Workmen's Compensation — Injury in the course of work — Commissioner for Labour of view that accident did not arise out of employment — No hearing held — Application for mandamus — Workmen's Compensation Act, 1975, ss. 24 & 25.

In this case the employee in the course of his work as a road sweeper fell near a drain. He was later operated upon for evacuation of blood clots arising from the head injuries. The matter was referred to the Commissioner for Labour, who took the view that the accident did not arise out of the employment. No hearing was held by the Commissioner for Labour. The applicant applied for an order of *mandamus* to direct the Commissioner of Labour to exercise the power conferred on him by the Workmen's Compensation Act, 1975 and to hear and determine the application's claim for compensation under the Act.

Held: In this case the Commissioner for Labour had failed to inquire into the matter and issue an order of assessment under Section 24 of the Workmen's Compensation Act, 1975 and therefore the applicant should be granted the order of *mandamus*.

ORIGINATING MOTION.

Karuppan Chettiar (*H.T. Choo* with him) for the applicant.

S. Tiwari (Deputy Senior State Counsel) for the respondent.

Cur. Adv. Vult.

Sinnathuray J.: This is an application for an order of *mandamus* directing the Commissioner for Labour to exercise the power conferred on him by section 24 of the Workmen's Compensation Act, 1975 (No. 25 of 1975) (the Act) and to hear and determine according to law the applicant's claim for compensation under the Act.

The brief facts are these. On April 4, 1980, in the morning, the applicant, an employee of the Ministry of the Environment, in the course of his work as a road sweeper fell near a drain at Finger Pier along Prince Edward Road. He was comatosed on admission into hospital. There he was operated upon for the evacuation of blood clots arising from head injuries. He eventually recovered and was discharged from hospital on September 20, 1980.

On October 8, 1980, the applicant was interviewed by an Assistant Public Health Inspector of the Ministry of the Environment. He told the interviewing officer that whilst he was sweeping the road in front of the Finger Pier Building he suddenly felt giddy and had a black-out. The next thing he knew was that he was in hospital.

On September 16, 1980 the solicitors for the applicant wrote to the Ministry of the Environment to inquire whether the accident had been reported to the Commissioner for Labour (the Commissioner). The Ministry had in fact soon after the accident on April 11, 1980 referred the matter to the Commissioner. From letters exhibited in the affidavits in these proceedings it appears that the Commissioner, having entered into correspondence with the hospital authorities, on February 17, 1981 wrote a letter to the solicitors for the applicant, the relevant part of which reads as follows:

> "Basing on the statement recorded from your clients, we are of the view that this accident did not arise out of his employment. As such, the case does not fall within the ambit of the Workmen's Compensation Act, 1975, and therefore no inquiry will be held."

The issue is whether this letter can be considered to be a decision of the Commissioner under the Act. For the applicant it is contended that it is not a decision from which the applicant can appeal to the High Court under the Act.

As I have understood the submission for the Commissioner it is that the conditions requisite for the operation of section 24(1) of the Act have not arisen; that in the circumstances there was nothing for the Commissioner to do; and therefore this court should not make an order of *mandamus* against the Commissioner. With respect, I cannot accede to that submission.

The power vested in the Commissioner to hear the claim made by the applicant is under section 24 of the Act. His power is to assess the compensation payable to the applicant. It is of course that under section 3 of the Act compensation will only be payable to the applicant if the injury suffered by the applicant arose out of and in the course of his employment.

How section 24 operates is provided for in the Workmen's Compensation Regulations, 1975 (the Regulations). The first step is that notice of an accident shall be given to the Commissioner by the employer as required under section 12 of the Act. It was done in this case. Then, notwithstanding section 11 of the Act which deals with the requirements of notice of accident and of claim to be given by the person making the claim, the Regulations require the Commissioner to take action as provided therein. The next step is that under rule 5 there has to be a written statement from the applicant. From the portion of the letter I have referred to, it is that the Commissioner acted on the applicant's statement recorded by the Assistant Public Health Inspector. No criticism can be made as regards this matter as in my judgment the Commissioner was entitled to rely on the statement, so that rule 5 of the Regulations has been complied with.

The step that follows next the Commissioner has to take is under Regulation 7. He has to enquire in writing from the Ministry whether liability is admitted on the claim of the applicant. This step was not taken. Had it been taken, one of two situations would have arisen. The Ministry may admit liability, in which event the Commissioner has to assess the compensation payable to the applicant. On the other hand, the Ministry may deny liability, on the ground that the injury of the applicant did not arise out of his employment. Then the Commissioner would have to, in my judgment, inquire into the matter under section 24(1) of the Act for the reason that he has to issue a notice of assessment under section 24(2) of the Act. Where the Commissioner finds for the applicant the notice of assessment will state the amount of the compensation payable to him. Where, however, the finding is in favour of the Ministry the notice will show a nil assessment. Whatever be the finding of the Commissioner, for or against the applicant, he has to issue a notice of assessment. This is another step the Commissioner has not complied with which has given rise to these proceedings. The failure to issue the notice of assessment has deprived the applicant from raising an objection under section 25 of the Act. It is under this section that the Commissioner has to conduct a hearing of the case and "hand down a decision". It is only then can it be said that there is a decision from the Commissioner. From this decision either party may appeal to the High Court under section 29 of the Act. For these reasons, I am of the view that it was proper for the applicant to have come to this court for an order of *mandamus* and I accordingly granted the order sought in the motion which includes costs.

Order accordingly.

Solicitors: *Murphy & Dunbar.*

RE "KOTA PAHLAWAN"; "KOTA PAHLAWAN", OWNERS OF CARGO v. "KOTA PAHLAWAN", OWNERS OF SHIP

[O.C.J. (Sinnathuray J.) October 9, 1981]
[Singapore — Admiralty in Rem No. 190 of 1980]

Practice and Procedure — Admiralty action — Action in rem — Indorsement — Leave to amend — Whether new party had been substituted — Whether defendants were deprived of defence of limitation — Carriage of Goods by Sea Act, 1972, art. III r.6 of Schedule — Rules of the Supreme Court 1970, Appendix A Form 155, O.6 r.4 & O.70 r.1(1).

Shipping Law — Action in rem — Indorsement of plaintiffs' address — Whether amendment could be allowed.

This was an appeal by the defendants against the decision of the Assistant Registrar giving the plaintiffs leave to amend the indorsement of the address of the plaintiffs in the Writ of Summons. The defendants contended that by amending the indorsement of address, a new party had been substituted and that this would deprive the defendants of the defence of limitation that had been available to them under Art. III Rule 6 of the Schedule to the Carriage of Goods by Sea Act, 1972.

Held, dismissing the appeal: (1) Form 155 in Appendix A of the Rules of the Supreme Court provides and confirms the practice that when the parties in an action *in rem* are owners of a ship or owners of cargo, they need not be identified by name, but can be described generally, as in the present case;

(2) in an admiralty action the paramount interest is the *rem*, be it ship or cargo or other things, and not the owners of the *rem;*

(3) in an admiralty action *in rem* where the plaintiffs are represented by solicitors, the indorsement as to the address of the plaintiffs is hardly of any consequence. Hence, in the present case, a mistake in the indorsement is an irregularity which a court, in the exercise of its powers to regulate its own process, would put right;

(4) the defendants were in no way prejudiced by the address of the consignors in the indorsement instead of that of the consignees. It is for the reason that from the time of the issue of the writ the consignees were a party as plaintiffs in this action;

(5) the defence of limitation was never available to the defendants in this action.

Case referred to:-

(1) *The Duke of Buccleuch* [1892] P.D. 201.

ADMIRALTY *IN REM.*

J. Prakash for the appellants/defendants.

K. Gopalan for the respondents/plaintiffs.

Sinnathuray J.: This is an appeal by the defendants against the decision of the Assistant Registrar giving the plaintiffs leave to amend the indorsement of the address of the plaintiffs on page 3 of the Writ of Summons. From:

"This Writ was issued by Wu & Raja, of No. 205 Colombo Court, Singapore, Solicitors for the said plaintiff(s) whose address is at 34, Lorong 32, Geylang Road, Singapore 14."

To:

"This Writ was issued by Wu & Raja, of No. 205 Colombo Court, Singapore, Solicitors for the said plaintiff(s) whose address is at Jalan Sunan Ampel, No. 12, Jakarta, Indonesia and is a partnership firm with limited liability and registered according to the laws of Indonesia."

The Writ of Summons relates to an admiralty action *in rem.* The plaintiffs are "The Owners of cargo lately laden on board the ship or vessel "KOTA PAHLAWAN". The defendants are "The Owners of the ship or vessel "KOTA PAHLAWAN"." In the indorsement of claim the plaintiffs claim as owners of certain goods or indorsees or holders for value of the bill of lading in respect of the goods shipped on board the defendants' vessel "KOTA PAHLAWAN" for carriage from Singapore to Indonesia against the defendants damages for breach of contract and/or breach of duty and/or negligence of the defendants, their servants or agents in respect of damage and/or short delivery of some of the goods.

The Writ of Summons was issued on April 10, 1980. Service of the Summons on the solicitors for the defendants was deferred because there was a banker's guarantee furnished by the defendants through their solicitors to Universal Union Trading Co. Pte. Ltd. c/o the plaintiffs' solicitors. Universal Union were the shippers and the consignors of the goods.

On January 23, 1981, the writ together with the Statement of Claim were served on the solicitors for the defendants. On February 20, the plaintiffs obtained leave to enter a judgment in default of appearance. On March 5 judgment was entered against the defendants for the amount quantified in the Statement of Claim.